

April 29, 2021

VIA E-FILING & COURIER

Luly E. Massaro, Commission Clerk
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

Re: Dkt. 5145 - Petition of Nautilus Solar Energy, LLC For Declaratory Judgment on R.I. Gen. Laws § 39-26.4, The Net Metering Act - Responses of The Narragansett Electric Company d/b/a National Grid to Commission's First Set of Data Requests Directed to National Grid: Redacted Copy

Dear Ms. Massaro:

Please find attached an electronic filing of the responses of The Narragansett Electric Company d/b/a National Grid to the Rhode Island Public Utilities Commission's First Set of Data Requests, and a motion for confidential treatment of data requests PUC-1-3 and PUC-1-4. This electronic filing contains redacted, non-confidential information.

Consistent with the instructions issued by the Commission on March 16, 2020, and updated on October 2, 2020, five (5) hard copies will be submitted to the Commission within twenty-four (24) hours, with two (2) hard copies being three-hole punched.

Also, I will enclose one confidential copy of the responses to data requests PUC-1-3 and PUC-1-4. Taken together, the Company's responses to data requests PUC-1-3 and PUC-1-4 contain project developers' names, project interconnection status, and names of customer off-takers of net metering credits. The Commission issued PUC-1-4, suggesting that the response be submitted "under seal." In compliance with PUC Rule 1.3(H)(3), I attach here a written motion requesting that the Commission maintain this information as confidential. I will include a confidential copy of the responses to data requests PUC-1-3 and PUC-1-4 in a sealed envelope marked, "Confidential Information - Do Not Release." I will also submit electronic versions of the confidential responses to you in a separate email message.

Thank you for your attention to this matter. If you have any questions, please contact me at 781-907-2126.

Very truly yours,



Laura C. Bickel
RI Bar # 10055

Enclosures

CC: Dkt. 5122 Service List

STATE OF RHODE ISLAND
RHODE ISLAND PUBLIC UTILITIES COMMISSION

IN RE: RECONSIDERATION OF INTERPRETATION)	DOCKET NO. 5145
OF R.I. GEN. LAWS § 39-26.4-2(5)(ii))	

NATIONAL GRID’S MOTION FOR PROTECTIVE TREATMENT OF
CONFIDENTIAL INFORMATION

National Grid¹ respectfully requests that the Rhode Island Public Utilities Commission (PUC) provide confidential treatment and grant protection from public disclosure certain confidential information submitted in responses to data requests issued in this proceeding, as permitted by Rule 810-RICR-00-00-1.3 (H) of the PUC’s Rules of Practice and Procedures and R.I. Gen. Laws § 38-2-2(4)(B). National Grid also respectfully requests that, pending entry of that finding, the PUC preliminarily grant National Grid’s request for confidential treatment pursuant to Rule 810-RICR-00-00-1.3 (H).

I. BACKGROUND

On April 19, 2021, the PUC issued a set of data requests regarding net metering customers and National Grid’s practices. The Company’s responses to two of these data requests, PUC-1-3 and PUC-1-4, include confidential information, such as the net metering project developer’s name, and the project’s status within the Company’s interconnection “queue,” and National Grid is legally obligated to protect such information from public disclosure. In addition, in PUC-1-4, the PUC requested that Company submit such information “under seal,” and PUC-1-3 and PUC-1-4 contain the same type of information. Therefore, the

¹ The Narragansett Electric Company d/b/a National Grid (National Grid or the Company).

Company seeks confidential protection of PUC-1-3 and PUC-1-4. For the PUC's review, the Company has submitted redacted and confidential versions of PUC-1-3 and PUC-1-4, under separate cover.

II. LEGAL STANDARD

PUC Rule 810-RICR-00-00-1.3 (H) provides that access to public records shall be granted in accordance with the Access to Public Records Act (APRA), R.I. Gen. Laws § 38-2-1 et seq. Under the APRA, all documents and materials submitted in connection with the transaction of official business by an agency is considered a "public record" unless the information contained in such documents and materials falls within one of the exceptions specifically identified in R.I. Gen. Laws. § 38-2-2(4). Therefore, to the extent that information provided to the PUC falls within one of the designated exceptions to the public records law, the PUC has the authority under the terms of the APRA to treat such information as confidential and to protect that information from public disclosure.

In that regard, R.I. Gen. Laws § 38-2-2(4)(A)(I)(b) provides that the following types of records shall not be deemed public: "Personnel and other personal individually-identifiable records otherwise deemed confidential by federal or state law or regulation, or the disclosure of which would constitute a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. §552 et. seq" See *Providence Journal Co. v. Kane*, 577 A.2d 661, 665 (R.I. 1990) (noting that the plaintiffs' request for information that will uniquely identify State employees by name, address, and employment history directly contravenes the clear proscription set forth in § 38-2-2 against disclosure of all records which are identifiable to an individual employee, including personnel records. Although the Court in *Kane* addressed a request for personal employee information, the APRA clearly protects the personal customer information that National Grid

seeks to protect here because this information includes the net metering project developer's name, and the project's status within the Company's interconnection "queue." As such, the information contained in PUC-1-3 and PUC-1-4 satisfies the exception found in R.I. Gen. Laws. § 38-2-2(4)(A)(I)(b).

III. BASIS FOR CONFIDENTIALITY

As noted above, PUC-1-3 and PUC-1-4 are confidential because they include the net metering project developer's name, and the project's status within the Company's interconnection "queue," which is information that National Grid does not ordinarily disclose to the public, and which National Grid is legally obligated to protect from public disclosure.

IV. CONCLUSION

Accordingly, National Grid respectfully requests that the PUC grant protective treatment to the responses to data requests PUC-1-3 and PUC-1-4, in this docket.

Respectfully submitted,

NATIONAL GRID

By its attorney,



Laura C. Bickel
RI Bar # 10055

PUC 1-1

Request:

Please indicate whether National Grid is allowing any projects to advance under the first legal argument made in the Petition. In other words, is National Grid allowing an eligible net metering system to allocate credits to multiple public entities, educational institutions, hospitals, and/or non-profits from a single project?

Response:

The petition for declaratory judgment of Nautilus Solar Energy, LLC (Nautilus) filed in Docket No. 5122 sought a determination that:

(a) a single eligible net-metering system, as defined in R.I. Gen. Laws § 39-26.4-2(5) of Chapter 26.4 of Title 39 (inclusive of relevant regulations, the "Act"), may be owned and operated by a renewable-generation developer on behalf of more than one public entity, educational institution hospital, nonprofit or multi-municipal collaborative, and, that (b) a group of public housing authorities are eligible to enter into a multi-municipal collaborative for the purposes of entering into a net-metering financing arrangement.

As an initial matter, the Company interpreted Nautilus's request as seeking clarification around the eligibility requirements for a customer of record with a net metering financing arrangement, as opposed to the composition of the credit "offtakers" or "allocates." This distinction between eligibility requirements of the customer of record and eligibility requirements of off-takers is critical in understanding how the Company is administering the net metering program.

When a renewable-generation developer applies for net metering on behalf of a public entity, educational institution, hospital, nonprofit or multi-municipal collaborative, the renewable-generation developer becomes the single customer of record for the net metering facility. With regard to whether National Grid is allowing projects to advance under the first legal argument above, the Company does not have sufficient information from customers requesting net metering services to know if an Eligible Net Metering System is owned or operated by a renewable energy developer on behalf of more than one public entity, educational institution, non-profit, hospital, or municipality within a multi-municipality collaborative because it has not been National Grid's practice to require the developer to submit a copy of the Net Metering Financing Arrangement. Instead, the Company established a practice of requesting that the developers certify compliance with net metering eligibility requirements related to net metering project ownership and/or financing arrangements by using a Remote Net Metering Self Certification forms (the "Self Certification Forms") as described herein. The Self Certification Forms were issued in 2020 during the second and third quarters of the year to owners of projects

to confirm net metering financing arrangements between developers and a public entity, educational institution, hospital, nonprofit, or multi-municipal collaborative as defined in RIPUC 2207 (currently RIPUC 2241). Each Self Certification Form states:

I hereby certify that, for the project named above:

the facility is owned and operated by a Public Entity, Educational Institution, Non-Profit, Hospital, or Municipality within a Multi-Municipality Collaborative;

OR

the facility is owned and operated by a renewable generation developer and located on property owned or controlled by a Public Entity, Educational Institution, Non-Profit, Hospital, or Municipality within a Multi-Municipality Collaborative through a "Net Metering Financing Arrangement" or other approved arrangements as approved by the RI PUC (citing to applicable RIPUC orders); AND

the facility is located on property owned or controlled by the Public Entity, Educational Institution, Non-Profit, Hospital, or one of the Municipalities, as applicable; AND

the production from the facility and primary compensation paid by the Public Entity, Educational Institution, Hospital, Nonprofit, or Multi-Municipal Collaborative to the private entity for such production is directly tied to the consumption of electricity occurring at the designated Net Metered Accounts.

The same forms are now part of the Company's Completion Documents stage of interconnection, which occur after construction nearly immediately before a system can and does become operational.

The Company's Net Metering Provision Tariff Form Schedule B (Additional Information Required for Net Metering Service) requires the applicant to identify the customer of record for the account, but does not require the applicant to identify the participants in a net metering financing arrangement. Notably, by submitting Schedule B, the customer of record agrees to comply with the Net Metering Provision.

While we do not dispute the PUC's determination clarifying the requirements for the customer of record eligibility when a net metering financing arrangement is involved, the Company believes that the allocation of credits is not similarly limited. With respect to allocatees associated with an Eligible Net Metering System owned by a developer (i.e., the customer of record) on behalf a public entity, educational institution, hospital, nonprofit, or multi-municipal collaborative pursuant to a net metering financing arrangement, the Company has been allowing an Eligible Net Metering System to *allocate credits* to the accounts designated by the customer of record, which may include allocating credits to the accounts of more than one public entity, educational institution, hospital, nonprofit and/or multi-municipal collaborative from a single project. Pursuant to the Net Metering Provision Tariff, it is the net metering customer who submits Schedule B for each net metering account allocatee, and the Company allocates credits to the accounts designated. Tariff at 9,

Section II.(6). Under RIGL 39-26.4-2, *all accounts* designated by the public entity, educational institution, hospital, nonprofit, or multi-municipal collaborative are treated as eligible net metering accounts. This provision does not appear to limit any one entity in the listed categories from designating credits to an account of a different entity in the listed category (for instance a public entity designating credits to a non-profit account entity).¹ The statute also excepts these net metering systems from the requirement that all of the net-metered accounts must be the accounts of the same customer of record. Id. The Company believes the provisions of RIGL 39-26.4 and the Tariff support an interpretation that allocatees do not have to be limited to the same type/nature of the entity that is a party to the Net Metering Financing Arrangement with the customer of record (i.e., the developer).

Please see the Company's responses to data requests PUC-1-2 and PUC-1-3 for additional information.

¹ The Company interprets these provisions to require that each allocatee would have to be some form of public entity, educational institution, hospital, nonprofit, or multi-municipal collaborative and could not be an allocatee falling outside of these categories (such as a private corporation).

PUC 1-2

Request:

If the response to PUC 1-1 is yes, please identify how many such projects are in operation, how many have been approved, but are not yet in operation, and for how long National Grid has been allowing such practice.

Response:

There are total 46 virtual net metering facilities currently in operation. Out of these 46 operational facilities:

- 12 are allocating credits to multiple public entities, educational institutions, hospitals and/or non-profit entities from the same project, and the first of these was interconnected August 11, 2016;
- 33 are allocating credits to single public entity, educational institution, hospital, or non-profit entity from the same project; and
- 1 is a Community Remote Net Metering system that is allocating to 700 low-income customer accounts.

There are 97 pending interconnection applications that have not received an authorization to interconnect letter from the Company, at this time. Out of these 97 pending interconnection applications:

- 5 have submitted Schedule B and provided a list of designated allocation accounts, and 1 of these is allocating credits to multiple public entities, educational institutions, hospitals, and/or non-profit entities;
- 20 have submitted Schedule B but have not designated allocation accounts; and
- 72 have indicated on their applications that they intend to participate in net metering, but have yet to submit a Schedule B.

As indicated above, the majority of the pending applications have not identified all of their off taking public entities. Typically, the interconnecting customer provides the complete allocation list close to the completion of project or just before receiving permission to operate from the Company.

As noted above, the Company's current practice of allowing an eligible net metering system to allocate credits to multiple public entities, educational institutions, hospitals, and/or non-profit entities from a single project has been in place since 2016.

The Narragansett Electric Company d/b/a National Grid
RIPUC Docket No. 5145
IN RE: Reconsideration of Interpretation of R.I. GEN. LAWS § 39-26.4-2(5)(ii)
Responses to Commission’s First Set of Data Requests
Issued on April 19, 2021

PUC 1-3

Request:

If the response to PUC 1-1 is yes, for each project identified in PUC 1-2, please identify the off-takers.

Response:

Please find below the list of the 46 operational virtual net metering projects and their respective “off-takers” or “allocates.” There are 12 operational Eligible Net Metering Systems currently allocating net metering credits to multiple entities, which are highlighted below.

No.	Facility ID	
1	193610	
2	178639	
3	178223	
4	184886	
5	188903	
6	207003	
7	209846	
8	177606	
9	177525	
10	177857	
11	177049	
12	176830	
13	176801	
14	176037	
15	176951	
16	176952	
17	176602	
18	177397	
19	176950	
20	176271	
21	175043	
22	174969	
23	174882	

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24	175823	
25	174804	
26	174395	
27	175888	
28	176078	
29	177607	
30	178417	
31	177241	
32	177433	
33	177012	
34	176983	
35	177242	
36	177277	
37	177050	
38	176384	
39	176606	
40	177300	
41	177298	
42	178088	
43	176792	
44	176955	
45	176956	
46	176954	

There are currently 97 interconnection applications pending in the interconnection queue. Out of 97 applications, [REDACTED] applicants have submitted Schedule B. Out of those [REDACTED], 5 applicants provided the name(s) of some off-takers and the remaining [REDACTED] stated, “To Be Determined.” Please find below the list of the 5 pending virtual net metering projects and their proposed designated off-takers or allocatees.

No.	Facility ID	
1	201084	
2	177380	
3	177381	
4	177382	
5	241191	

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PUC 1-4

Request:

How many projects seeking participation in “Public Entity Net Metering” (as defined in the Notice opening this docket) are engaged in interconnection studies? Please identify the project owners under seal.

Response:

Please find below list of 97 pending interconnection applications currently in the queue for interconnection studies. All of these applications indicated on their interconnection application form that they will be participating in Net Metering. Some of these projects appear to be seeking participation as Public Entity Net Metering, however, as mentioned in the response to data request PUC 1-3, applicants have not provided all requisite information to determine classification at this time.

	Facility ID	Developer	Current Queue Status	Total System Rating KWAC
1	320865	[REDACTED]		9000
2	320864			6000
3	205135			1800
4	259630			3900
5	243294			750
6	178542			2200
7	178196			840
8	310206			1680
9	282343			4000
10	184947			6250
11	201084			4482
12	177895			4980
13	293303			668
14	345953			1000
15	178309			6860
16	254089			10000

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17	264912		10000
18	265010		10000
19	178246		10000
20	178197		7040
21	178206		9680
22	178208		4400
23	178209		7040
24	178210		8100
25	178211		4400
26	177675		2000
27	178177		2640
28	178178		3520
29	323329		10000
30	323328		10000
31	178654		2750
32	295026		5000
33	263108		5500
34	263116		8750
35	178424		4250
36	299430		6000
37	325898		4000
38	325889		4000
39	325799		750
40	325872		1500
41	301657		10000
42	301787		4000
43	301782		4000
44	304062		4000
45	301777		4000
46	295438		4000
47	301795		4000
48	301651		10000
49	263808		4000
50	283509		2250

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51	177380		1000
52	177381		9990
53	177382		9990
54	177530		10000
55	177531		10000
56	177532		10000
57	177529		10000
58	241191		3060
59	178191		3120
60	177983		6220
61	189125		6220
62	186406		9600.5
63	186409		9600.5
64	186403		9600.5
65	263039		9500
66	206765		830
67	293298		4999
68	232295		4900
69	232308		4900
70	232301		4900
71	201828		8000
72	206317		6160
73	206316		6160
74	184910		1600
75	290986		4250
76	177924		4780
77	178348		4780
78	209841		3850
79	185255		4975
80	176953		4000
81	178057		740
82	197003		10000
83	206311		10000
84	206313		10000
85	246606		7500

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86	246614		5250
87	246616		9750
88	246609		8750
89	246610		8500
90	285556		2000
91	285553		10000
92	285554		6000
93	212672		4000
94	177686		5250
95	201286		3625
96	197232		6474
97	185244		800

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PUC 1-5

Request:

If the response to PUC 1-1 is yes, please provide the rationale for not informing the Commission of such practice during the comment period in Docket No. 5122.

Response:

During the comment period in this proceeding, the Company did not discern that its practice of allowing an Eligible Net Metering System to designate delivery service accounts of more than one public entity, educational institution hospital, nonprofit or multi-municipal collaborative *for net metering credit allocation* was pertinent to resolving Nautilus Solar Energy, LLC's (Nautilus) first legal issue, which appears to focus on the issue of whether an Eligible Net Metering System may be owned and operated by a renewable-generation developer on behalf of more than one public entity, educational institution hospital, nonprofit or multi-municipal collaborative. Therefore, it was not readily apparent to National Grid that information concerning its credit allocation practices would be relevant to the Commission's determination of Nautilus' petition. The Company regrets not identifying the nuance of this issue during the comment period in this proceeding and submitting information about this practice for the Commission's consideration.